

ATTACHMENT 55

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF PENNSYLVANIA
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5 IN RE: PROCESSED EGG PRODUCTS: MDL NO. 2002
6 ANTITRUST LITIGATION 08-MDL-02002
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9 PHILADELPHIA, PA
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11 MAY 10, 2018
12 DAY SEVEN

13 BEFORE: THE HONORABLE GENE E.K. PRATTER, J.
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16 TRIAL TRANSCRIPT
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23 Room 1234 - U.S. Courthouse
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(Transcript produced by mechanical shorthand via C.A.T.)

1 to write something, as opposed to writing where the witness
 2 is.
 3 THE COURT: Yes, let's see how it goes.
 4 MR. LYONS: Okay, thank you.
 5 THE COURT: The other thing is, if you knew how to
 6 do it on the computer, you could draw on the computer.
 7 MR. LYONS: My kids could do that. I can't.
 8 THE COURT: Okay.
 9 (Witness resumes the stand.)
 10 THE DEPUTY CLERK: All rise.
 11 (Jury in.)
 12 THE COURT: Please take your seats. Good morning,
 13 ladies and gentlemen. Bummer about the game, you know,
 14 nail-biter. You know, there's always next year, you know, all
 15 of the above. Okay, thank you so much for everybody getting
 16 here straightaway on time. We are, in fact, ready to resume.
 17 Counsel, you may proceed.
 18 MR. LYONS: Thank you, Your Honor.
 19 DIRECT EXAMINATION (RESUMED)
 20 BY MR. NEUWIRTH:
 21 Q. Good morning, Ms. Reickard.
 22 A. Good morning.
 23 Q. Yesterday, we were talking about United States Egg
 24 Marketers and their export program, and you indicated that
 25 USEM took over the administration of that program in around

1 2000?
 2 A. UEP took over.
 3 Q. UEP took over. Thank you for correcting me.
 4 A. Yes. Yes.
 5 Q. Prior to UEP taking over the USEM marketing program and
 6 exporting eggs, isn't it true that United Egg Producers had
 7 its own export program?
 8 A. I -- I didn't remember that, but I have seen minutes, so,
 9 yes.
 10 Q. Okay.
 11 MR. LYONS: Could I show you an exhibit, and,
 12 Counsel, this is Tab 6 in your binders.
 13 May I approach, Your Honor?
 14 THE COURT: Yes.
 15 CROSS-EXAMINATION
 16 BY MR. LYONS:
 17 Q. So, Ms. Reickard, I placed an exhibit in front of you
 18 which is -- appears to be minutes of a UEP Export Committee
 19 meeting, February 1, 2000. Do you see that?
 20 A. Yes.
 21 Q. You attended that meeting; is that correct?
 22 A. Yes.
 23 MR. LYONS: Your Honor, I move admission of
 24 Plaintiffs' Exhibit 41.
 25 MR. BARNES: No objection.

1 THE COURT: 41's admitted.
 2 MR. LYONS: Can I have that displayed to the jury,
 3 please?
 4 THE COURT: Sure.
 5 BY MR. LYONS:
 6 Q. Now, you see, Ms. Reickard, this is a meeting of the UEP
 7 Export Committee, and it lists you on the left-hand side, four
 8 lines down, as a member -- excuse me -- as someone who
 9 attended this meeting.
 10 A. Yes.
 11 Q. Do you see that?
 12 A. Yes.
 13 Q. And then there's a reference to Chad Gregory in the
 14 middle of the page, and then to the right, there's Gene
 15 Gregory, his father?
 16 A. Yes.
 17 Q. If you go down to the minutes, it says: Gregory, which
 18 is Gene Gregory, reported that an order had been accepted for
 19 100 containers, number 48 Class 1 or graded loose eggs and 20
 20 containers of the same size eggs, and it continues on from
 21 there.
 22 Do you see that?
 23 A. Yes.
 24 Q. And then it says -- he explained: If UEP's committee
 25 agreed to participate at the same percentages in the past,

1 that our share of the order would be 30 containers.
 2 Do you see that?
 3 A. Yes.
 4 Q. So let me stop there for a second. So you recall that
 5 the United States Egg Marketers was exporting eggs?
 6 A. Yes.
 7 Q. Right. And then this appears to indicate that United Egg
 8 Producers would participate in those exports from time to
 9 time, does it not?
 10 A. Yes, they were asked to supply eggs.
 11 Q. Okay. And you were a vice president of United Egg
 12 Producers?
 13 A. Yes.
 14 Q. And you attended this particular meeting. Do you recall
 15 if you attended other export committee meetings?
 16 A. I just don't remember.
 17 Q. But you do recall at least that there was an export
 18 committee?
 19 A. I guess there was, yes.
 20 Q. Okay. Now, what is your understanding as to why United
 21 Egg Producers was participating in exports by United States
 22 Egg Marketers?
 23 A. Well, they probably weren't able to supply all of the
 24 eggs themselves, and so they were going to the UEP marketing
 25 program to -- to get the eggs.

10

1 Q. When you say "they," you're referring to United States
 2 Egg Marketers?
 3 A. Yes.
 4 Q. United States Egg Marketers was going to export some
 5 eggs?
 6 A. Right.
 7 Q. They didn't have enough so they went to UEP to have UEP
 8 help fill and complete that order?
 9 A. Yes.
 10 Q. Now, after the UEP Export Committee agreed to pursue this
 11 particular export, they had to notify the membership of the
 12 United Egg Producers, correct?
 13 A. Um, I --
 14 Q. Well, let me see if I can help you out here. If I can
 15 ask you to take a look at the third paragraph from the bottom.
 16 It says: DeVries reported that we had secured export
 17 commitment forms from members representing more than 30
 18 million hens and that an immediate effort would be made to
 19 gain the support from as many members as possible.
 20 Do you see that?
 21 A. Yes.
 22 Q. Does that refresh your recollection that after the UEP
 23 Export Committee agreed to fund an export, they had to have
 24 the members help fund that export?
 25 A. Yes.

11

1 MR. LYONS: Your Honor, I'm going to approach with
 2 an exhibit. It's Tab 5.
 3 BY MR. LYONS:
 4 Q. I've placed an exhibit in front of you that's a notice
 5 from United Egg Producers dated February 1, 2000, the same
 6 date as the conference call meeting.
 7 Do you see that, ma'am?
 8 A. Yes.
 9 Q. And do you recognize this document?
 10 A. Do I recognize what?
 11 Q. Do you recognize this document?
 12 A. Yes.
 13 Q. Okay.
 14 MR. LYONS: Your Honor, I'd move admission of
 15 Plaintiffs' Exhibit 40.
 16 THE COURT: Any objection?
 17 MR. BARNES: Yes, Your Honor, hearsay.
 18 MR. LYONS: It's offered -- it's not offered for the
 19 truth of the contents, Your Honor. It's offered to prove the
 20 export announcement was made to the members of UEP.
 21 THE COURT: I didn't hear that there was a dispute
 22 about that. I think that she said that it was. What does the
 23 document do to advance the ball here?
 24 MR. LYONS: It identifies for the export
 25 committee's -- excuse me -- for the members of UEP that this

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1 export was accepted by the Export Committee.
 2 THE COURT: That's being offered for the truth of
 3 the acceptance?
 4 MR. LYONS: No. The Board minutes do that. This is
 5 offered to indicate that the members are being asked to
 6 participate in this particular export, and there's an export
 7 commitment form attached to the e-mail.
 8 THE COURT: Well, the objection is hearsay, and your
 9 response to that is it's not being offered for the truth of
 10 what's contained in the document, so why is the document being
 11 offered?
 12 MR. LYONS: It's being offered to show that there
 13 was a form that was circulated that the witness hasn't
 14 testified to the members asking them to complete the form.
 15 THE COURT: Okay, on that basis and for that limited
 16 purpose, the document is admitted.
 17 MR. LYONS: So can I have Exhibit P-40 on the
 18 screen.
 19 BY MR. LYONS:
 20 Q. You'll see, ma'am, this is an export order acceptance
 21 notification. If we go to the very last page of the exhibit,
 22 you'll see there's an export commitment form.
 23 A. Yes.
 24 Q. And it says: Our company recognizes the importance of a
 25 cooperative effort in filling large export orders of fresh

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1 shell eggs. To confirm our commitment to this initiative, our
 2 company agrees to participate in all shell egg export orders
 3 taken by USEM and approved by the UEP Export Committee.
 4 Do you see that?
 5 A. I do.
 6 Q. And isn't it true, ma'am, that this form was submitted to
 7 the membership of UEP and they were being asked to agree to
 8 the export?
 9 A. Yes.
 10 Q. And this is how UEP notified its members that there was
 11 an export that they were being requested to fill, correct?
 12 A. Yes.
 13 Q. Now, the second paragraph says: We understand that
 14 UEP's egg traders will purchase the eggs for any export
 15 delivery in the open market and allocate the profit or the
 16 loss from the export sale to participating companies at an
 17 equal rate per layer owned or managed by those having signed
 18 this form.
 19 Do you see that, ma'am?
 20 A. Yes, I do.
 21 Q. Okay. Now, ma'am, it's your understanding that these
 22 exports were done periodically, true?
 23 A. Yes.
 24 Q. And as of 2000, did you have an understanding as to how
 25 the export program worked?

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1 A. Yes, after we took over the management.
 2 Q. Okay. I'm going to ask that you look at the first page
 3 of this exhibit. And if we could go to the second-to-the-last
 4 paragraph on the first page, the penultimate paragraphs.
 5 There's a sentence that begins: The difference between the
 6 purchase price of the eggs and the 28 cent sale price, and it
 7 continues on, will be charged to those members committed to
 8 support the export order. And it describes a win/win
 9 situation.
 10 Do you see that ma'am?
 11 A. Yes.
 12 MR. BARNES: Your Honor, excuse me. I hate to
 13 interrupt Mr. Lyons' examination, but it sounds like he's
 14 really talking about the truth of the matter.
 15 THE COURT: What's the objection?
 16 MR. BARNES: Hearsay.
 17 THE COURT: Okay. The document's been admitted for
 18 a limited purpose. Let's stick with that purpose, and we
 19 don't need to then read from the document that's been
 20 admitted.
 21 BY MR. LYONS:
 22 Q. Ma'am, let me ask you this question: When this
 23 announcement was sent to the members, was it your
 24 understanding that all of the members understood the purpose
 25 of the export?

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1 MR. BIZAR: Calls for speculation, Your Honor,
 2 objection.
 3 THE COURT: Sustained.
 4 BY MR. LYONS:
 5 Q. Did UEP make efforts to notify the membership of the
 6 reasons for the export?
 7 A. I don't know. I don't remember this and this came from
 8 the Georgia office. I really don't know.
 9 Q. You can put that down for a second.
 10 A. Okay.
 11 Q. I'm going to ask you a question in your capacity as a
 12 vice president of United Egg Producers --
 13 A. Okay.
 14 Q. -- who worked on the United States Egg Marketers export
 15 program.
 16 A. Okay.
 17 Q. What is your understanding as to whether the members of
 18 the United Egg Producers who participated in the exports
 19 understood the purpose of the program?
 20 MR. BARNES: Same objection.
 21 MR. BIZAR: Same objection.
 22 MR. LYONS: It goes --
 23 THE COURT: The question is did this witness have
 24 any such understanding.
 25

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1 BY MR. LYONS:
 2 Q. Did you have an understanding as to whether or not the
 3 people who were participating in the program understood the
 4 purpose of the program?
 5 MR. BIZAR: Your Honor, objection as foundation.
 6 THE COURT: Overruled.
 7 THE WITNESS: I assume they understood.
 8 BY MR. LYONS:
 9 Q. Now, isn't it true that United Egg Producers told the
 10 members if they had any questions about the program, they
 11 could contact United Egg Producers?
 12 A. Yes.
 13 Q. In fact, that's what the document says, correct?
 14 A. Yes.
 15 Q. Anyone having questions about how this actually works is
 16 invited to call the UEP office for further clarification.
 17 MR. BARNES: Objection. Objection.
 18 THE COURT: What's the objection?
 19 MR. BARNES: The same objection.
 20 THE COURT: Well, it's a cumulative question.
 21 BY MR. LYONS:
 22 Q. Did you ever receive a telephone call from anyone asking
 23 for clarification about the export program?
 24 A. No.
 25 Q. The entire time that you worked at United Egg Producers,

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1 did you receive a letter, a fax, an e-mail from anyone
 2 questioning why this export program was in existence?
 3 A. Not that I remember.
 4 Q. And your -- you believe that the members understood the
 5 purpose?
 6 A. I believe they did, yes.
 7 Q. You understood that once an export was announced, the
 8 price of eggs would go up, correct?
 9 A. Not necessarily.
 10 MR. LYONS: Your Honor, I'm going to read from the
 11 witness's deposition. I believe counsel has copies of the
 12 deposition.
 13 And if you'd like me to give a copy to the witness,
 14 I can, Your Honor.
 15 THE COURT: I think that would be fair.
 16 MR. LYONS: Okay.
 17 BY MR. LYONS:
 18 Q. Ms. Reickard, do you recall that you flew from Iowa to
 19 Philadelphia in 2014 to give a deposition?
 20 A. Yes.
 21 Q. And at that deposition, that was at a law firm's offices?
 22 A. Yes.
 23 Q. All right, and there was a court reporter --
 24 A. Yes.
 25 Q. -- who was taking everything down?

18

1 A. Yes.

2 Q. There was no judge there, but there was a court reporter

3 and several lawyers, correct?

4 A. Yes.

5 Q. And the court reporter had administered an oath to you?

6 A. Yes.

7 Q. And that's the same oath you took yesterday when you

8 agreed to testify truthfully, correct?

9 A. Yes.

10 Q. Now, at your deposition --

11 MR. LYONS: And, Counsel, for the record, this is at

12 page 134 of her deposition, line 17.

13 BY MR. LYONS:

14 Q. Question: And what you had to pay for the eggs on the

15 open market, was the greater -- was that greater than the

16 price that you received for the purchase of eggs?

17 Attorney: Object to the form of the question.

18 The witness: The price of eggs changes daily, so

19 once word is out about an export, more than likely the price

20 is going to be going up. So depending on what day the eggs

21 were purchased, it usually became more expensive to buy the

22 eggs.

23 That was your testimony at your deposition, right,

24 ma'am?

25 A. Yes, I said more than likely which --

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1 Q. Okay, so it was your understanding, ma'am, isn't it true,

2 that once an export was announced, the price of eggs was more

3 than likely to go up?

4 A. More than likely yes.

5 Q. And wasn't it true, ma'am, that the purpose of the export

6 program was to raise the domestic price of eggs?

7 A. Well, I'm sure that egg producers hoped that the domestic

8 price would go up because they were probably losing money.

9 Q. The purpose was to raise the price of domestic eggs,

10 correct?

11 MR. BARNES: Objection. Asked and answered.

12 THE COURT: Sustained.

13 MR. LYONS. Can I have Exhibit 25? Do you have 25?

14 MR. BIZAR: I apologize, I appreciate it.

15 BY MR. LYONS:

16 Q. Ms. Reickard, isn't it true that you actually told USEM

17 members that the purpose of the export program was to raise

18 the domestic price of eggs?

19 A. I don't know if I did that or not.

20 MR. LYONS: May I approach, Your Honor?

21 THE COURT: Yes, you may.

22 BY MR. LYONS:

23 Q. Ms. Reickard, I've placed an exhibit in front of you.

24 It's a document on United Egg Producers stationery with

25 Box 170 to 124 North 2nd Street Eldridge, Iowa. 52478 is the

20

1 ZIP code.

2 Do you recognize that address, ma'am?

3 A. Yes.

4 Q. The phone number is 563-285-9100. Do you recognize that

5 phone number, ma'am?

6 A. Yes.

7 Q. That's your office, correct?

8 A. Yes.

9 Q. And this is an e-mail that you sent out to USEM members

10 in November of 2006, and in that letter, you told them: We

11 know that the loss on this export is high, but we hope that

12 you understand that the purpose was to raise the domestic

13 price of eggs and that was accomplished.

14 Correct?

15 A. This letter went out in my name because the invoices were

16 included with it, but Gene Gregory is the one who actually

17 wrote it.

18 Q. Do you dispute, ma'am, that the purpose of the export was

19 to raise the domestic price of eggs?

20 A. That was the hope.

21 MR. LYONS: Your Honor, I move admission of

22 Exhibit 200.

23 MR. BARNES: Objection.

24 THE COURT: Sustained.

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1 BY MR. LYONS:

2 Q. Now, you created some forms, Ms. Reickard, with regard to

3 the export program, right?

4 A. Yes.

5 Q. We looked at some of those yesterday?

6 A. Yes.

7 Q. Those are the case volume export reports, and we looked

8 at Exhibit 206 and we looked at 216?

9 A. Yes.

10 Q. I'm going to show you a couple more, okay?

11 A. Okay.

12 MR. LYONS: 29, 30, and 31, Counsel.

13 Can I approach, Your Honor?

14 THE COURT: Yes.

15 BY MR. LYONS:

16 Q. Now, ma'am, I've placed Exhibit 229, 250, and 292 in

17 front of you, and you recognize those as additional export

18 case volume forms, correct, ma'am?

19 A. Yes.

20 Q. And these were prepared by you, correct?

21 A. Yes.

22 MR. LYONS: Your Honor, I'd move admission of

23 Exhibits 229, 250, and 292.

24 MR. BARNES: No objection.

25 THE COURT: 229, 250, and 292, and they're admitted.

1 BY MR. LYONS:
2 Q. Now, we looked at these forms yesterday.
3 MR. LYONS: If I can have 229 on the screen.
4 BY MR. LYONS:
5 Q. This is the form for a different export than what we were
6 looking at yesterday, right, ma'am?
7 A. Yes.
8 Q. But the form is the same?
9 A. Yes.
10 Q. Right. And you had changed the information on the form
11 as needed, but generally, this was the form that you used when
12 you were sending people invoices for exports, right?
13 A. Yes.
14 Q. Now, for every export that's listed here, if you go to
15 the right-hand column, it says: Percent of loss.
16 Do you see that, ma'am?
17 A. Yes.
18 Q. And the loss is the loss on this particular export,
19 correct?
20 A. Yes. That's correct.
21 Q. And that's the same for 229 and 250 and 292?
22 A. Correct.
23 Q. All right. And these were preprinted forms, right?
24 A. Preprinted?
25 Q. Well, you had this form on your computer, and you would

1 just cull it up as needed, correct?
2 A. Yes. Yes, and change things as needed.
3 Q. Right. But the one thing you never had to change was the
4 column that said percent of loss, right? You never had to
5 change that column? You changed the amount, but you never
6 changed the title of the column?
7 A. No. No, I did not have to.
8 Q. Right. Because every export always resulted in a loss,
9 true?
10 A. Of the eggs that -- that we had to go out and buy, yes.
11 Q. Well, the entire egg program, every time there was an
12 export, to your knowledge, the export lost money, correct?
13 A. Well, the -- like I said, this is referring to the people
14 that we bought eggs for.
15 Q. I understand. And we're going to spend some time talking
16 about that, but overall, the shipment was a loss, right? You
17 were buying eggs in the United States, selling them overseas,
18 and you were buying them in the United States for a price that
19 was higher than you could sell them overseas. And the entire
20 export was a loss, isn't that true, ma'am?
21 A. Than selling them overseas?
22 Q. Let me ask it this way, and you can just give me a yes
23 and no, if you can. If you can't, then tell me you can't, and
24 then I'll move on to something else, and then we'll come back
25 to it later with another exhibit.

1 A. Okay.
2 Q. Ms. Reickard, isn't it true that you know, as you sit
3 here today, that every export that was done resulted in a loss
4 to United States Egg Marketers?
5 MR. BARNES: Objection. Asked and answered.
6 THE COURT: Overruled.
7 MR. LYONS: I'm waiting for an answer. I didn't
8 hear an answer.
9 THE COURT: When I overrule, that means you can go
10 ahead and answer it. Sorry.
11 THE WITNESS: Okay.
12 THE COURT: Do you remember the question?
13 THE WITNESS: Yes, but I'm still answering it the
14 same way.
15 BY MR. LYONS:
16 Q. Which is what?
17 A. The -- I mean, I have no knowledge of the people that
18 supplied their own eggs, whether they lost money or not. I
19 don't know that.
20 Q. Okay, well, let's put it this way: Certainly for the
21 people who bought -- who asked United Egg Producers to go out
22 and buy eggs for them to complete an export, those people lost
23 money?
24 A. Yes, I said that. Yes.
25 Q. And just so that we're clear, on every export, every

1 export, where someone contacted United Egg Producers and asked
2 them to buy eggs for me, because I don't have eggs, to fulfill
3 this export, that person lost money; isn't that true?
4 A. That is true.
5 Q. So just so that I'm clear, if I'm sitting at home and I
6 understand that there's an export going out, I'm going to
7 contact United Egg Producers to say, I want to participate in
8 this export, I want you to buy eggs for me because I don't
9 have them, I want you to sell those eggs for me overseas, and
10 then you're going to send me a bill.
11 That's how your program works, right, ma'am?
12 A. That is how it worked, yes.
13 Q. And the bill would be a payment that I would have to make
14 because the export always lost money?
15 MR. BARNES: Objection.
16 THE COURT: Overruled -- you have asked this
17 question before, so I think you can move on.
18 BY MR. LYONS:
19 Q. So did United Egg Producers tell people that the exports
20 lost money?
21 A. I don't know if we told them or not.
22 Q. Do you recall United Egg Producers asking people to
23 support the egg program?
24 A. Yes.
25 MR. LYONS: I'm going to ask you to take a look at

1 Tab 22, Counsel.

2 And that's Exhibit 201.

3 May I approach, Your Honor?

4 THE COURT: Yes. Except that in Tab 22 is a

5 notebook that says it's Exhibit 315-G.

6 MR. LYONS: Yes, Your Honor, I apologize. The

7 second page of that exhibit is Tab 201 -- is Exhibit 201.

8 There was a copying error, so we had a couple of exhibits --

9 THE COURT: Okay. I just want to make sure I know

10 what you're talking about here.

11 BY MR. LYONS:

12 Q. I have placed an exhibit in front of you, ma'am. It's

13 the United Voices newsletter, dated November 30, 2006. Do you

14 recognize this document?

15 A. Yes.

16 Q. Okay.

17 MR. LYONS: Your Honor, I'd move admission of

18 Exhibit 201.

19 MR. BARNES: Objection. Hearsay.

20 THE COURT: Sustained.

21 BY MR. LYONS:

22 Q. Ms. Reickard, do you recall whether or not Mr. -- excuse

23 me -- the R.W. Sauder company of Pennsylvania contributed to

24 exports?

25 A. Yes.

1 Q. And do you recall whether UEP notified its membership

2 from time to time that the Sauder company contributed to

3 exports?

4 A. No, I don't remember if they notified them from time to

5 time.

6 Q. You knew that Sauder company was delivering exports,

7 correct, or contributing to exports?

8 A. On an export-by-export basis, they supported the export,

9 yes.

10 Q. Okay. And then, in fact, the Sauder company submitted a

11 membership application, correct?

12 A. They did, but that was later. I later discovered

13 after --

14 Q. There's no question.

15 MR. LYONS: Your Honor, I'd move to strike

16 everything after they said they did.

17 THE COURT: You're cutting her off?

18 MR. LYONS: She can answer. Then I'll ask to strike

19 it, because she's answered the question.

20 THE COURT: Why don't you answer the question --

21 finish your answer.

22 THE WITNESS: They submitted a form, a membership

23 form. I added them as a member, and later when I was

24 invoicing them for dues, they told me that they weren't going

25 to be a member, that they hadn't planned on it, and I didn't

1 realize that. They had apparently talked to Gene Gregory

2 about it. He didn't tell me. And so --

3 THE COURT: Okay.

4 THE WITNESS: -- they just became a supporter.

5 THE COURT: Now, you don't want to talk about what

6 other people said.

7 MR. LYONS: So I move to strike everything after

8 they submitted the application.

9 THE COURT: All right. The testimony that went

10 beyond answering the question about the submission of an

11 application will be stricken.

12 MR. LYONS: Can I have Exhibit 9, please. May I

13 approach with an exhibit, Tab 9, Exhibit 207?

14 THE COURT: Yes.

15 BY MR. LYONS:

16 Q. Do you recognize Exhibit 207, ma'am?

17 A. Yes.

18 Q. And that's the Membership Agreement that was submitted by

19 the R.W. Sauder?

20 A. Yes.

21 MR. LYONS: Your Honor, I move admission of

22 Plaintiffs' Exhibit 207.

23 MR. BIZAR: No objection, Your Honor.

24 THE COURT: 207 is admitted.

25 MR. LYONS: I ask that it be published and displayed

1 to the jury.

2 THE COURT: Yes, that's fine.

3 BY MR. LYONS:

4 Q. Do you recognize this, ma'am?

5 A. Yes.

6 Q. Now, this is similar to the form that Rose Acre

7 submitted; isn't that correct?

8 A. Yes.

9 Q. So let me ask you to turn your attention to the

10 submission by Sauder, which we are speaking about. When did

11 you receive this application, if you recall?

12 A. Well, it's dated -- I mean, it would have gone to the

13 Atlanta office. It's dated December 27 of '06.

14 MR. LYONS: Then can I have Exhibit 208 on the

15 screen, which is in evidence of the -- that we looked at

16 yesterday?

17 BY MR. LYONS:

18 Q. And this was just before the January 2000 sale of eggs

19 that were supported, correct, ma'am?

20 A. That's correct.

21 MR. BIZAR: To be clear, Mr. Lyons, it's Tab 27?

22 MR. LYONS: Yes.

23 MR. BIZAR: Thank you.

24 BY MR. LYONS:

25 Q. Now, I'm going to show you another exhibit, ma'am, and I

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1 apologize for the speed at which I'm moving. I'm trying to
 2 move a little bit faster. Do you recall if after this
 3 membership application was submitted, whether or not the
 4 United Egg Producers announced to the membership that
 5 R.W. Sauder Eggs had become a member?
 6 A. After the export -- what did you say?
 7 Q. After the membership application was submitted, do you
 8 recall if R.W. Sauder was announced to the membership of UEP
 9 as becoming a member of the USEM?
 10 A. No, I don't recall.
 11 Q. Let me see if I can refresh your recollection. It's
 12 Exhibit 440 and it's in Tab 22.
 13 MR. LYONS: This is just for the purpose of
 14 refreshing the witness' recollection, Your Honor.
 15 BY MR. LYONS:
 16 Q. Ms. Reickard, if I show you Exhibit 440 for
 17 identification purposes only and ask you to take a look at
 18 that, and let me know whether that refreshes your memory as to
 19 whether or not UEP announced to the membership that
 20 R.W. Sauder had become a member.
 21 A. Okay, I see that they did announce it, yes.
 22 Q. Do you remember that happening?
 23 A. No. I'm retired. It's been a long time.
 24 Q. Just a few more exhibits on this. Now, at some point in
 25 time, you mentioned that Mr. Sauder or the Sauder company did

31

1 not actually become a member of the United States Egg
 2 Marketers. Did I understand that correctly?
 3 A. That's correct.
 4 Q. So you received a membership application; they
 5 participated in the January export, correct?
 6 A. Yes.
 7 Q. 2007.
 8 And then they participated in the February export in
 9 2007?
 10 A. Yes.
 11 Q. And at some point in and around that time, you understood
 12 that they might not actually become a member; is that correct?
 13 A. Yes, I understood that they were not going to be members.
 14 Q. And you received -- and did Mr. Gregory and you have any
 15 conversations about that?
 16 A. We had an e-mail back and forth, yes.
 17 Q. Okay. It's Exhibit 315B, Tab 22.
 18 MR. LYONS: May I approach, Your Honor?
 19 THE COURT: Yes, you may.
 20 BY MR. LYONS:
 21 Q. Is that the e-mail conversation you were referring to,
 22 ma'am?
 23 A. Yes.
 24 MR. LYONS: Your Honor, I move admission as
 25 Exhibit 315B.

32

1 MR. BIZAR: No objection, Your Honor.
 2 MR. LYONS: And I ask --
 3 THE COURT: Well, hold on. It's admitted. Now you
 4 may publish it.
 5 BY MR. LYONS:
 6 Q. Ms. Reickard, is that the e-mail conversation you had
 7 with Mr. Gregory? Do you see that?
 8 A. Yes.
 9 Q. It says: Sauder is not going to pay the USEM 2007 fee.
 10 The AP person said Paul just joined for this export and is not
 11 becoming a member. Please advise.
 12 And then, Mr. Gregory responded: Paul talked to me
 13 about it. He is still a supporter but wants to work on each
 14 individual order rather than being an official member.
 15 It continues on: He is concerned that he might
 16 legally not be qualified but wants to be a supportive.
 17 Did I read that correctly?
 18 A. Yes.
 19 Q. At least as of this date, you understood that
 20 Mr. Sauder's company was going to be participating in the
 21 export program but not necessarily as a member, correct?
 22 A. Yes.
 23 Q. And he wasn't the only company to act in that way,
 24 correct?
 25 A. That's correct. We had other supporters.

33

1 Q. There was a company called Wilcox?
 2 A. Yes.
 3 Q. And they would not join the USEM, right?
 4 A. Right.
 5 Q. They wanted to support it?
 6 A. Yes.
 7 Q. And for you, that was sometimes hard to tell the
 8 difference, correct, between a member and a supporter?
 9 A. Um, well, I usually knew who was a member versus who was
 10 a supporter. That issue in January 1 was confusing.
 11 MR. LYONS: May I approach, Your Honor?
 12 THE COURT: Yes. Tab 23, Counsel, Exhibit 316G.
 13 BY MR. LYONS:
 14 Q. That's an e-mail dated March 29, 2007 between yourself
 15 and Gene Gregory, correct?
 16 A. Yes.
 17 Q. And then in that e-mail, you said it was hard to tell the
 18 difference between a member and a supporter, correct?
 19 A. Right. In the way -- yes.
 20 MR. LYONS: I move the admission of 316G,
 21 Your Honor.
 22 MR. BIZAR: No objection, Your Honor.
 23 THE COURT: Very well. 316G is admitted.
 24 MR. LYONS: And if I could ask that it be published
 25 to the jury.

1 THE COURT: Go ahead.

2 BY MR. LYONS:

3 Q. It says here, it's an e-mail from you to Mr. Gregory:

4 Wilcox will not join USEM, just support it. Hard to tell the

5 difference, and that is also the same with Sauder and

6 Willamette.

7 And you write: I noticed in the newsletter you

8 listed them as a member, but they didn't join as far as I

9 know.

10 Do you see that?

11 A. Yes.

12 Q. And, ma'am, it was hard to tell the difference between a

13 member and a supporter because they basically acted in the

14 same fashion except for paying dues, right?

15 MR. BIZAR: Objection.

16 THE COURT: Sustained.

17 BY MR. LYONS:

18 Q. Ma'am, why was it hard to tell the difference between a

19 member and a supporter?

20 MR. BARNES: Objection.

21 THE COURT: Overruled.

22 THE WITNESS: Because they were all helping to

23 support the exports by supplying eggs.

24 BY MR. LYONS:

25 Q. What about them supporting the export, what made that

1 different between a member and a supporter?

2 A. The supporter would supply eggs, help with the export,

3 but they were not a member. They did not get to vote about

4 the exports.

5 Q. If I understood correctly, members were obligated to

6 participate in the export program, correct?

7 A. Members were, yes.

8 Q. Supporters were not obligated --

9 A. No, they were not.

10 Q. -- correct?

11 But when you filled out your forms for the export

12 case volume, you listed supporters and made them contribute at

13 the same level as members, correct?

14 MR. BIZAR: Objection. Mischaracterizes the

15 testimony, Your Honor.

16 THE COURT: Hold on a second.

17 MR. BIZAR: The objection is that it

18 mischaracterizes the testimony.

19 THE COURT: Okay, well, the witness is obviously

20 free to answer the question if she understands it.

21 Can you answer the question?

22 THE WITNESS: Would you repeat it, please?

23 BY MR. LYONS:

24 Q. Sure. Let me see if I can help you. If we can take a

25 look at Exhibit 216 -- excuse me. I'm sorry. 229. And if we

1 could go to the last page of Exhibit 229.

2 Do you see here the column here for members --

3 excuse me -- supporters, not members, right?

4 A. Yes.

5 Q. And it also says: Check with them?

6 A. Yes.

7 Q. And then for the Sauder company, it lists 2,100,000, and

8 that's the number of hens they had as capacity, correct?

9 A. Yes.

10 Q. And if they're going to contribute to this export, you

11 are asking them to contribute their pro-rata share, correct?

12 A. Well, they could say if that's what they wanted to do.

13 Q. You were asking them to contribute?

14 MR. BIZAR: Your Honor, I'm sorry. I'm sorry to

15 interrupt, Mr. Lyons. But I have to object to the way that

16 the exhibit is being displayed. The tech person --

17 THE COURT: The exhibit was admitted.

18 MR. BIZAR: Yes. But the way it's being displayed

19 on the screen suggests that Mr. Sauder's company was a member,

20 when, in fact, in the document itself it says supporters --

21 THE COURT: Okay. Okay, we're not going to have an

22 argument here.

23 And I've lost track of what your purpose is for

24 going back to 229 anyway. So pose the question and let's

25 see -- let's move on.

1 MR. LYONS: Okay, so let's have the entire section

2 that says "supporters, not members," "check with them" blown

3 up so that I can address counsel's objection.

4 THE COURT: Pose the question again. What is the

5 pending question?

6 BY MR. LYONS:

7 Q. They are listed here as providing eggs in their pro-rata

8 share even though they're not a member, correct, ma'am?

9 A. That is correct.

10 Q. And my question to you is why are you asking them to

11 contribute in their pro-rata share when they are not a member

12 and can contribute at whatever level they want to?

13 A. Because that is apparently the level that they wanted to

14 contribute.

15 Q. My question to you, ma'am, is did you ask them what level

16 they wanted to contribute, or did every time you had an export

17 where you were contacting a supporter, you specifically put

18 down the pro-rata share and charged them their pro-rata share

19 of eggs initially?

20 A. I'm not sure if I contacted them. Usually, I believe,

21 Gene Gregory did. So I'm not sure how those conversations

22 worked.

23 Q. Isn't it true, ma'am, that every export that a supporter

24 who wasn't a member, it was calculated at the pro-rata share

25 for that supporter?

1 A. Yes.

2 Q. Now, on this same form, the Wilcox Farms and Willamette

3 Eggs are listed as supporters and they're not members, right?

4 A. That's correct.

5 Q. And they are being asked -- excuse me. They are asking

6 United Egg Producers to buy eggs for them?

7 A. Yes.

8 Q. All right. And they're limiting the number of eggs that

9 they're asking to buy to their pro-rata share in this exhibit?

10 A. Yes.

11 Q. And is it your understanding that they could have

12 contributed at a level greater than what's indicated on this

13 form?

14 A. Of course.

15 Q. Did you ever ask anyone who was a supporter to contribute

16 more than their pro-rata share?

17 A. I don't know if Gene did or not.

18 Q. Did you ever do that?

19 A. No.

20 Q. Did you ever receive any indication from Mr. Gregory that

21 he ever requested that someone contribute at more than their

22 pro-rata share?

23 A. No, I don't know.

24 MR. LYONS: Tab 12, Exhibit 274.

25 May I approach, Your Honor?

1 THE COURT: Yes, you may.

2 BY MR. LYONS:

3 Q. I placed an exhibit in front of you, ma'am. It's a USEM

4 document from August of 2008 listing members in support.

5 Do you recognize that document?

6 A. Yes.

7 MR. LYONS: Your Honor, I move admission of

8 Exhibit 274.

9 MR. BARNES: Objection. Hearsay.

10 THE COURT: Do you have a reason that the document

11 will be admitted or admissible?

12 MR. LYONS: It's offered to prove what was

13 communicated to the members about producers.

14 THE COURT: Well, then we need to lay that

15 foundation for that.

16 BY MR. LYONS:

17 Q. Does this indicate that not only are members listed but

18 producers are listed?

19 MR. BIZAR: Speaking from the document, Your Honor.

20 BY MR. LYONS:

21 Q. Ma'am, let me ask you this question. Do you recall that

22 United States Egg Marketers announced to its membership who

23 the supporters were?

24 A. I don't -- this is not my document. I don't know who

25 received it or --

1 Q. Let me ask a different question. Do you recall whether

2 or not the membership was ever notified that there were

3 producers who were paying their fair share of each export?

4 A. The membership of UEP?

5 Q. Yes.

6 A. Yes, I think they were.

7 Q. Okay. And to your knowledge, the term "paying your fair

8 share of an export," was that a term that was used frequently

9 at UEP to describe the export process?

10 A. It may have been.

11 Q. What types of eggs were exports, ma'am?

12 A. It varied. Sometimes it was graded, sometimes it was

13 nest-run. It depended on what the exporter wanted.

14 Q. So graded eggs and nest-run eggs. I think we've talked

15 about graded eggs in this trial, and you weren't here.

16 What's a nest-run egg?

17 A. Not graded.

18 Q. Any egg that's not graded?

19 A. I think so. You'd have to ask a producer about that.

20 Q. Okay. So let me ask you to take a look at -- I think

21 it's going to be our next-to-last exhibit.

22 MR. LYONS: And I'm going to use the butcher block

23 paper for this, Your Honor.

24 May I have someone from my team set that up for me?

25 MR. BIZAR: Your Honor, may I move around?

1 THE COURT: Sure.

2 MR. BIZAR: Thank you.

3 MR. LYONS: So, Your Honor, I was misled by my team.

4 I thought this had legs. So with the Court's indulgence, can

5 we put that on our counsel table?

6 THE COURT: Just put it wherever it works out.

7 MR. LYONS: Oh, it does have legs. Okay.

8 THE COURT: Ladies and gentlemen, one of the

9 beauties of every trial is that every so often we get to go

10 back to -- back to basics, and at some point in the not

11 terribly distant past, we actually used to view exhibits this

12 way as opposed to the computer. But it's always nice to see

13 that we can go back to the basics. Maybe.

14 MR. LYONS: Okay. It's set up, and I'll move it a

15 little bit just so I can see.

16 THE COURT: Any of you who need to scooch around,

17 you may, of course.

18 MR. LYONS: May I approach, Your Honor?

19 THE COURT: Sure.

20 MR. LYONS: Let me just show these exhibits to

21 counsel so they're here.

22 MR. DESTEFANO: Excuse me. May I inquire, is that

23 Tab 20 in the binder?

24 MR. LYONS: Yes, Tab 20 and 18, Counsel.

25

1 BY MR. LYONS:
2 Q. So, Ms. Reickard, I've placed Exhibit 292 in front of
3 you. Do you see that, ma'am?
4 A. Yes.
5 Q. And this refers to an export of eggs for an August 8th
6 sale. Do you see that?
7 A. Yes.
8 Q. Do you recognize this document, ma'am?
9 A. Yes.
10 MR. LYONS: Your Honor, I'd move admission of
11 Exhibit 292.
12 MR. BARNES: No objection.
13 THE COURT: 292 is admitted. I think it already was
14 admitted, by the way.
15 MR. LYONS: Then I apologize, Your Honor. So
16 Exhibit 292. I'm glad I didn't get an objection.
17 BY MR. LYONS:
18 Q. This is an August 8th sale, and if we could go to the
19 second page for a second, you'll see there's some -- it says:
20 Supporters, not members, check.
21 Do you see that?
22 A. Yes.
23 Q. And there's some handwritten notes at the bottom there.
24 Do you see that, ma'am?
25 A. Yes.

1 Q. Do you recognize that handwriting?
2 A. It's mine.
3 Q. That's yours. And that was you calculating the loss per
4 dozen on this export, correct?
5 A. I'm not sure what that is.
6 Q. Okay. Well, we'll go through it then.
7 A. Okay.
8 Q. And if I could ask you to take a look at Exhibit 273.
9 A. Okay.
10 Q. Do you recognize this form?
11 A. Yes.
12 Q. Okay. And this is a form that you regularly see which
13 announced to UEP members that there was an export and what the
14 price of the export was and what they were going to get paid,
15 right?
16 A. I didn't normally see it. This came out of the Georgia
17 office.
18 Q. So you -- did you utilize the information?
19 A. Not per se.
20 Q. Well, you had to collect -- you had to -- you had to
21 calculate the amount of loss for every export, correct, ma'am?
22 A. That's correct.
23 Q. And in order to calculate the loss for every export, you
24 had to know what the price that the exporter would receive
25 when they shipped the eggs overseas, correct?

1 A. Correct.
2 Q. And you also had to know the price that the exporter
3 would pay to buy the eggs in the United States, correct?
4 A. Correct.
5 Q. And that -- and this form is what provided you with that
6 information; isn't that true?
7 A. I got all that information from Phyllis and Gene in the
8 office.
9 Q. And they would use this form to give you that
10 information?
11 A. I don't know.
12 MR. BARNES: Objection -- I'm sorry. I didn't mean
13 to interrupt the witness.
14 BY MR. LYONS:
15 Q. So with regard to this export, you'll see that on --
16 MR. LYONS: Can I still have that on the screen,
17 please.
18 BY MR. LYONS:
19 Q. If we look at the Loss column, it's 433,821.58 is the
20 total loss on the bottom page for this export for people who
21 were supplying eggs, correct?
22 A. Yes.
23 Q. And the number of eggs that were shipped overseas is the
24 total through this column of those in the category under
25 Purchase, right?

1 A. The total packed and purchases. The total of eggs that
2 went overseas.
3 Q. Well, how many dozen went overseas?
4 A. Well, what I wrote there, I'm assuming, is the dozen from
5 the 99,750 and the 72,289.
6 No, not those columns.
7 Q. If I multiply 2700 -- 27,461 cases by 30 cartons, that's
8 the number that I get, right, 823,830?
9 A. Yes.
10 Q. Okay. So I'm going to use that on the board so that
11 we're all on the same page, okay?
12 A. Okay.
13 Q. 823,830, those are the number of eggs, the dozen eggs
14 that went overseas for this export, for those people who were
15 asking you to buy eggs for them, correct?
16 A. Oh, you said that was 27,461 times 30?
17 Q. Yes.
18 A. Is that what you said?
19 Q. Yes.
20 A. Okay, yes.
21 Q. Okay. And then the loss is 4338251 -- 821.58?
22 A. Yes.
23 Q. And then you just basically did division. You divided
24 the loss, 433,821.58 by 823,830, and you came out to 53 cents
25 a dozen; isn't that true ma'am?

1 A. It looks like it.
 2 Q. In fact, it's actually .5265, but you rounded up?
 3 A. Possibly.
 4 Q. 53 cents a dozen was the loss on this export. 53 cents a
 5 dozen lost?
 6 A. To the people that didn't supply their own eggs.
 7 Q. To the people who didn't supply their own eggs.
 8 Now, in order to figure out that loss, you had to
 9 know how much the eggs were being purchased for in the United
 10 States, correct?
 11 A. Yes.
 12 Q. Purchase price in the US.
 13 And then you had to know how much of eggs were going
 14 to sell for overseas, right?
 15 A. Yes.
 16 Q. And that loss was 53 cents a dozen?
 17 A. Yes.
 18 Q. And when you calculated this, you had to find out what
 19 the purchase price was that was overseas, and you used the
 20 price of 58 cents per dozen, correct, ma'am? And I direct
 21 your attention to Exhibit 273. Do you have that in front of
 22 you, ma'am?
 23 A. Yes.
 24 Q. If you look at the last paragraph, the sale price.
 25 A. Yes. It apparently was 58 cents.

1 Q. So 58 cents was the sale price of the eggs overseas. And
 2 so the purchase price in the US was actually \$1.11 per dozen,
 3 correct, because \$1.11 minus 58 gives you 53 cents a dozen
 4 loss, correct? Isn't that true, ma'am?
 5 You have eggs in the United States, you're buying
 6 them for \$1.11, you're shipping them overseas at 58 cents.
 7 The person overseas is paying 58 cents per dozen eggs, and the
 8 loss for that shipment to the people who are saying buy my
 9 eggs is 53 cents a dozen. That's what you calculated?
 10 A. That's what I calculated.
 11 Q. So, ma'am, just so we're clear, and I'm not trying to
 12 trick you or anything, okay, so I want this to be clear. For
 13 those people who didn't have eggs, they would contact USEM and
 14 say, There's an export order. I have been asked -- and we can
 15 use the exhibit so that we're clear.
 16 MR. LYONS: We can go to Exhibit 292, and you can
 17 just blow up the entire column that says Purchase.
 18 MR. BARNES: Excuse me. Are we done with that?
 19 MR. LYONS: No.
 20 BY MR. LYONS:
 21 Q. Every one --
 22 MR. LYONS: Can everyone see that?
 23 THE COURT: What's the question?
 24 MR. LYONS: I was having it blown up.
 25

1 BY MR. LYONS:
 2 Q. Can you see where it says Purchase? For everyone who
 3 asked USEM to purchase eggs, you calculated a loss for them at
 4 53 cents a dozen, correct, ma'am?
 5 A. Yes.
 6 Q. Okay. And so for all of those companies that were
 7 saying, Please purchase eggs for me, I want to support this
 8 export, I don't have eggs to contribute for this export,
 9 please buy the eggs, you would go out and pay \$1.11, sell
 10 those eggs overseas for 58 cents, and they would have a loss
 11 of 53 cents a dozen; isn't that true?
 12 A. We didn't pay \$1.11 for each load of eggs. Each load of
 13 eggs was negotiated at different prices. So you can't just
 14 say \$1.11.
 15 Q. The average price was \$1.11; isn't that true, ma'am?
 16 A. Well, it looks like it would have been, yes.
 17 Q. So the average price was \$1.11 to get to an export price
 18 of 58 and a loss of 53. So I'll stand corrected and say the
 19 average price was \$1.11, okay?
 20 A. Okay.
 21 Q. Now, just so that I'm clear, if I was asking you to --
 22 excuse me.
 23 If I'm a supporter and I want to contribute to this
 24 export, why would I -- or could you tell the jury why I would
 25 ask you to buy eggs in the United States for \$1.11, sell them

1 overseas at 58 cents, and I would have to pay a loss of
 2 53 cents a dozen? Why would I do that?
 3 MR. BARNES: Objection, speculation.
 4 THE COURT: Sustained.
 5 BY MR. LYONS:
 6 Q. Ma'am, isn't it true that you knew that the supporters
 7 who were doing that were doing that because they expected the
 8 domestic price of eggs to rise when the export was announced?
 9 And so even though they might lose money on this short-term
 10 deal, they would make money in the long term?
 11 MR. BARNES: Same objection.
 12 THE COURT: Well, I'll let her answer the question
 13 if she can. Then we're going to move on.
 14 BY MR. LYONS:
 15 Q. I'm sorry. I can't hear you.
 16 A. I believe so.
 17 Q. Okay, now, for the person who had their own eggs to sell,
 18 you paid 59 cents a dozen for those in this instance, correct?
 19 On an average price.
 20 A. You mean 58?
 21 Q. Let me ask you to take a look at Exhibit 273. And the
 22 penultimate paragraph says: USEM will pay.
 23 Do you see that, ma'am?
 24 A. In --
 25 MR. BIZAR: Your Honor, that's not been admitted.

50

1 THE COURT: Hold on. Do you have an objection?

2 MR. LYONS: I'm not --

3 THE COURT: No, 273 has not been admitted.

4 MR. LYONS: I'm not asking to admit it. I'm just

5 asking her to look at it.

6 THE COURT: Okay.

7 BY MR. LYONS:

8 Q. Exhibit 273, do you see that, ma'am?

9 A. Yes.

10 Q. Okay, now, in order for suppliers who had eggs, they

11 would sell those eggs to USEM, and USEM would ship those eggs

12 overseas, right?

13 A. Right.

14 Q. Okay. And in this instance, the sales price that they

15 would get was 59 cents, correct? On average.

16 A. Why are you saying 59? It's 58.

17 Q. Could you just look at the paragraph that's not talking

18 about the people who are buying eggs?

19 A. Oh, okay, all right. I was looking at the wrong

20 paragraph. Okay.

21 Q. 59?

22 A. Okay.

23 Q. So these are the people who are asking to buy eggs, and

24 we're just going to use the same piece of paper so we don't

25 have to belabor the point, but for those people who have eggs,

51

1 who say, I have eggs, I'm going to contribute, pay me for

2 those eggs, they're paying -- they're getting 59 cents, right?

3 A. Yes. Yes.

4 Q. So if I sell eggs here, I get 59 cents a dozen, right?

5 A. Yes.

6 Q. Now, just so that I'm clear, those people have eggs to

7 sell. The domestic price that they could get is \$1.11, but

8 they chose to sell their eggs to USEM for 59 cents a dozen,

9 isn't that true?

10 A. Well, they wouldn't have been able to sell them for

11 \$1.11, if the export hadn't been announced.

12 Q. You were buying eggs for \$1.11, right?

13 A. After the export was announced.

14 Q. So you were buying eggs for \$1.11, and the domestic

15 market price went up. And people who had eggs to sell were

16 selling those eggs to you for 59 cents, correct?

17 A. Yes.

18 Q. And so if they knew that the eggs price was going up and

19 they had eggs to sell, they could sell those eggs on the

20 market in the United States for \$1.11, a dozen, but instead

21 they would sell them to you for 59 cents a dozen?

22 MR. BIZAR: Objection, Your Honor. Asked and

23 answered. It hasn't been established. It's assuming facts

24 that aren't in evidence.

25 THE COURT: It's sustained.

52

1 BY MR. LYONS:

2 Q. Ma'am, isn't it true that the only reason that USEM and

3 UEP did this export program was so that they knew that by

4 shipping eggs overseas at a loss, that the domestic price

5 would rise?

6 MR. BIZAR: Asked and answered, Your Honor.

7 THE COURT: Okay, last time you ask the question.

8 Now you can answer it, and then you're either --

9 MR. LYONS: I'm done.

10 THE COURT: Okay. Can you answer the question?

11 THE WITNESS: They were -- they were selling at a

12 loss more than likely because they had an oversupply.

13 MR. LYONS: No more questions, Your Honor.

14 THE COURT: How are we doing, ladies and gentlemen?

15 Do we have to have a break? Okay, we're going to have a

16 seven-and-a-half minute break, okay. Something under ten

17 minutes, and we'll resume. Please don't talk about the case.

18 We are going to pick it up again shortly.

19 THE DEPUTY CLERK: All rise.

20 (Jury out.)

21 THE COURT: You can get to enjoy the break, too,

22 ma'am.

23 That's for everybody here.

24 (After recess:)

25 THE DEPUTY CLERK: All rise.

53

1 (Jury in.)

2 THE COURT: Okay, everybody, you may take your

3 seats, and the cross-examination may commence.

4 CROSS-EXAMINATION

5 BY MR. BIZAR:

6 Q. Ms. Reickard, my name is Steve Bizar, and I represent

7 R.W. Sauder. Have we met before today?

8 A. No.

9 Q. Have we ever spoken before?

10 A. No.

11 THE COURT: You need to keep your voice up, maybe

12 just the mike.

13 There you go.

14 BY MR. BIZAR:

15 Q. So Mr. Lyons was talking to you about the negotiated

16 market price and he drew that on his easel, which is \$1.11.

17 Do you see that?

18 A. Yes.

19 Q. Do you recall Mr. Gregory ever complaining to you of the

20 prices -- complaining to you about the prices that R.W. Sauder

21 was charging USEM for exports?

22 A. I don't recall that, no.

23 Q. Okay. It could have happened, you just don't recall?

24 MR. LYONS: Objection. Leading a witness.

25 MR. BIZAR: I'm allowed to lead.

1 THE COURT: Uh, uh, uh. You don't talk to each
 2 other; you talk to me.
 3 MR. BIZAR: Your Honor, I think I'm allowed to lead.
 4 THE COURT: Okay, I'm going to overrule the
 5 objection.
 6 Move along, please. Thanks.
 7 BY MR. BIZAR:
 8 Q. Do you see this \$1.11 market price?
 9 A. Yes.
 10 Q. Do you happen to know whether that was the price Paul
 11 Sauder sold to UEP at?
 12 A. I don't know.
 13 Q. Okay.
 14 MR. BIZAR: We can take this away now.
 15 BY MR. BIZAR:
 16 Q. So you testified on direct that Mr. Sauder filled out an
 17 application for USEM Membership. Do you recall that?
 18 A. Yes.
 19 Q. And that application was Plaintiffs' Exhibit 207.
 20 MR. BIZAR: Can you bring that up?
 21 You probably have it in front of you, but -- thank
 22 you.
 23 BY MR. BIZAR:
 24 Q. And do you recognize this as the Sauder company
 25 application for membership dated 27 December 2006?

1 A. Yes.
 2 MR. BIZAR: And if we could bring out paragraph 2.
 3 BY MR. BIZAR:
 4 Q. Do you see where it says Membership Dues?
 5 A. Yes.
 6 Q. And it says: UEP members may become USEM members by
 7 making an export commitment as identified in Item 3 and paying
 8 an annual membership fee of 120 cents per layer. And it goes
 9 on and talks about nonUEP applicants.
 10 Do you see that?
 11 A. Yes.
 12 Q. So did you understand that to be a USEM member, if you
 13 are a UEP member at the time, you'd have to fill out the
 14 application form and pay the membership fee?
 15 A. Yes.
 16 Q. And this is dated December 27, 2006, right?
 17 A. Yes.
 18 Q. And your testimony was that it went to the Atlanta
 19 office?
 20 A. Yes.
 21 Q. And then it was sent to you?
 22 A. Yes.
 23 Q. And to your knowledge, Mr. Sauder never paid that
 24 membership fee, correct?
 25 A. That is correct.

1 Q. And Mr. Sauder never became a member, right?
 2 A. That's correct.
 3 Q. Mr. Sauder was a supporter?
 4 A. Yes.
 5 Q. And as a supporter, his company could not vote on whether
 6 or when to take an export; isn't that right?
 7 A. That's right.
 8 Q. In fact, they never voted on whether or when to take an
 9 export on or the terms of an export?
 10 A. As far as -- that happened in the Georgia office. As far
 11 as I know, no.
 12 Q. Okay, as far as you know, they didn't?
 13 A. That's correct.
 14 Q. Okay. So let's look at the January 2007 export list,
 15 which is in evidence. It's Plaintiffs' Exhibit 208.
 16 MR. BIZAR: And if we could bring that up.
 17 BY MR. BIZAR:
 18 Q. And you have it in front of you as well.
 19 And this is the export list for the January 2007
 20 sale, which shows R.W. Sauder or Sauder R.W. as a member?
 21 Do you see that?
 22 A. Yes.
 23 Q. So how long after you received the USEM application, the
 24 application of Sauder to join USEM did you make up this export
 25 list?

1 A. I don't remember.
 2 Q. Sometime after you received the application?
 3 A. Yes.
 4 Q. And it was based in part on the application?
 5 A. Yes.
 6 Q. And it lists Sauder and it doesn't have anything in the
 7 Percentage of Loss column. Do you see that for Mr. Sauder?
 8 A. Right.
 9 Q. And we'll look at other documents that are like this that
 10 will be similar, but I just want to call your attention to
 11 that in advance.
 12 So at the time that you prepared this January 2007
 13 export sales document, you thought that Sauder was a member?
 14 A. That's correct.
 15 Q. Okay.
 16 MR. BIZAR: And let's bring up Plaintiffs'
 17 Exhibit 216, also in evidence. This is at Tab 28.
 18 BY MR. BIZAR:
 19 Q. And this is the February 2007 sale?
 20 A. Yes.
 21 Q. Do you see that?
 22 A. Yes.
 23 Q. Now, and this is also one of the ones that lists Sauder
 24 as a member?
 25 A. Yes.

1 Q. If you can bring that out.

2 How -- when did you invoice for dues to the members

3 typically?

4 A. For USEM?

5 Q. Yes, for USEM.

6 A. Well --

7 Q. Let me ask you --

8 A. -- I don't remember.

9 Q. Okay.

10 A. It must have been January, since I was trying to collect

11 it then.

12 Q. Right. And sometime after you invoiced Sauder company

13 for dues, you realized that they were not going to pay the

14 dues, they were not a member?

15 A. Yes, I was trying to collect because they hadn't paid.

16 Q. And this document, this export sale document for

17 February 2007, was prepared before you had figured that out?

18 A. Obviously so, yes.

19 Q. You were trying to be meticulous and careful, but you

20 just didn't have the information?

21 A. That's correct.

22 Q. Okay.

23 A. Gene didn't tell me.

24 Q. Okay, it happens in every office.

25 So let's look at a document that I've marked as a

1 cross-examination exhibit.

2 MR. BIZAR: And I'm going to approach the witness,

3 Your Honor, and distribute the document, if I may.

4 THE COURT: You may.

5 MR. BIZAR: We'll call this Defendants'

6 Cross-Examination Exhibit 97.

7 THE COURT: 97.

8 MR. BIZAR: 97. Can I have the Elmo?

9 BY MR. BIZAR:

10 Q. Let me -- before we display this, just go through this

11 with you.

12 Does this appear to be one of your export lists for

13 USEM layers for February 13, 2007?

14 A. This is the membership list.

15 Q. Ah. Do you recognize it?

16 A. Yes, I do.

17 Q. It's something that you would have prepared in the

18 regular course of business?

19 A. Yes.

20 Q. As a regular practice?

21 A. Yes.

22 MR. BIZAR: Your Honor, may I offer Defense

23 Cross-Examination Exhibit 97 into evidence?

24 MR. LYONS: No objection.

25 MR. BIZAR: May I display it?

1 THE COURT: Yes, you may.

2 BY MR. BIZAR:

3 Q. And, Ms. Reickard, this is the membership list for

4 February 2007?

5 A. Yes.

6 Q. And am I right that it does not show R.W. Sauder as a

7 member?

8 A. That is correct.

9 Q. On either side?

10 A. No.

11 Q. Thank you.

12 And then Mr. Lyons also showed you some other export

13 documents, if you look at the April, May, 2007 sale which is

14 Plaintiffs' Exhibit 226.

15 MR. BIZAR: Can we bring that up. That's in

16 evidence as well. It's Tab 29.

17 BY MR. BIZAR:

18 Q. Do you recognize this as the export case volume for

19 2000 -- for April and May of 2007?

20 A. Yes.

21 Q. And, again, this does not list Sauder as a member, but

22 for the first time Sauder is listed as a: Supporter, not

23 member, check with them.

24 Do you see that?

25 A. It's not.

1 Q. You have to go to the second page. I'm sorry.

2 A. It's not displayed. Yes, that is correct.

3 MR. BIZAR: Can we just enlarge that to show Wilcox

4 and Willamette. Thank you.

5 BY MR. BIZAR:

6 Q. So in this document -- so "supporter nonmember check with

7 them" means is that Sauder had the opportunity to choose

8 whether or not to participate in the export, right?

9 A. That is correct.

10 Q. It wasn't obligated --

11 A. No.

12 Q. -- to participate in the export?

13 A. Absolutely no.

14 Q. If he had eggs available, he could supply the eggs?

15 A. Yes.

16 Q. He could even supply them at \$1.11, negotiated market

17 price if he chose to?

18 A. That's correct.

19 Q. He didn't have to do that, though?

20 A. No.

21 Q. Now, it has in the far right column, which is Percentage

22 of Loss --

23 A. Yes.

24 Q. -- there's dollars filled in for Wilcox and Willamette,

25 right?

1 A. Yes.

2 Q. But you see there's no dollars filled in for Sauder?

3 A. That's correct.

4 Q. Does that mean Sauder was not billed for a percentage of

5 loss by this document?

6 A. That's right. He supplied all of his own eggs.

7 Q. Thank you.

8 Let's look at Plaintiffs' Exhibit 229. And this is

9 also in evidence.

10 MR. BIZAR: If we can bring it up.

11 BY MR. BIZAR:

12 It's August, September, 2007. And, again, in this

13 particular document, Sauder is not listed as a member?

14 A. Correct.

15 Q. And they're on the back page as a supporter, not member.

16 If you go to the second page, if you would.

17 A. Correct.

18 Q. And, again, Sauder is not billed for a percentage of

19 loss, right?

20 A. That's correct.

21 Q. So Sauder's not subsidizing any other member's loss,

22 right?

23 A. No. No.

24 Q. Is that correct?

25 A. That's correct.

1 Q. In fact, if that column is blank in every one of these

2 forms, it means that Sauder is never subsidizing any member's

3 loss?

4 A. Correct.

5 MR. LYONS: Objection. No foundation.

6 THE COURT: Overruled.

7 BY MR. BIZAR:

8 Q. Let's look at 250, which is also in evidence. Mr. Lyons

9 saved us some time by putting this into evidence, and this is

10 for June 2008, so we've skipped a period of time.

11 And, again, R.W. Sauder is not listed as a USEM

12 member?

13 A. Correct.

14 Q. So it means that between any other document -- between

15 the last document that we saw which was for August, September,

16 2007 and June, 2008, if there were any exports, he could have

17 chosen to participate in them or chosen not to participate?

18 A. Correct.

19 Q. If you look at 250 on the second page, again, Sauder is

20 listed as supporter, not member?

21 A. Yes.

22 Q. And you see there's nothing there in the column

23 indicating that Sauder funded a percentage of loss?

24 A. Correct.

25 Q. So Sauder didn't contribute to subsidizing another

1 member's loss?

2 A. No, he didn't.

3 Q. And if we look at 292, I think that's the one, to the

4 same effect, this is the August 2008 sale. Sauder, again, is

5 listed as a supporter, not member on the second page?

6 A. Correct.

7 Q. That means he could choose to participate or not?

8 A. Correct.

9 Q. And it means -- there's nothing in the column for

10 percentage of loss, so he didn't subsidize any other member's

11 loss?

12 A. Correct.

13 Q. Okay. Now, you've never received a membership dues

14 payment from R.W. Sauder, right?

15 A. No.

16 Q. And to your knowledge, as you sit here today, R.W. Sauder

17 never voted on a terms of an export, right?

18 A. As far as I know, no.

19 Q. They wouldn't be able to vote as a nonmember?

20 A. That is correct.

21 Q. And R.W. Sauder never negotiated the terms of an export,

22 right?

23 A. No.

24 Q. Do you have any idea whether R.W. Sauder had other export

25 customers aside from UEP -- or USEM, rather?

1 A. No, I don't know.

2 Q. But he was free to have other export customers?

3 A. Of course.

4 Q. Now, Mr. Lyons also asked you about two other documents

5 that I wanted to show you very briefly, if I may. One is

6 Plaintiffs' Exhibit 40 -- if we could bring that up -- and

7 this is a document entitled Export Order Accepted February 1,

8 2000. And there's a reference to the UEP document, and

9 there's a reference -- there's a form on the fourth page, page

10 ending in 621. It looks like this. It says: Export

11 commitment?

12 A. Yes.

13 Q. It's not signed, is it?

14 A. No.

15 Q. In fact, Mr. Lyons didn't show you any form signed by

16 R.W. Sauder, signed by Paul Sauder for any export commitment,

17 did he?

18 A. No.

19 Q. And this form, this document has as its third page

20 members having signed export commitment, and it has a listing

21 of members, and you see no reference to R.W. Sauder there; is

22 that right?

23 A. No, that's correct.

24 Q. This is just a form document --

25 A. Yes.

1 Q. -- right?

2 An empty unsigned form document?

3 A. Yes.

4 Q. And during the hours that you were on the stand, no

5 signed commitment form was presented with R.W. Sauder, Paul

6 Sauder's signature, right?

7 A. No.

8 Q. Let's look at Plaintiffs' Exhibit 445, also in evidence.

9 And let's go to the second page of that.

10 And that's an export commitment, right?

11 A. Yes.

12 Q. Not signed by R.W. Sauder?

13 A. No.

14 Q. Not signed by Paul Sauder?

15 A. No.

16 Q. And there's no reference in this document to Paul Sauder?

17 A. No.

18 Q. It's just a form from September of 2001, right?

19 A. Correct.

20 Q. And during the hours that you were testifying previously,

21 no signed commitment form was presented to you by R.W. Sauder,

22 right?

23 A. No. That's correct.

24 MR. BIZAR: Was 315B entered into evidence? I think

25 it was.

1 THE COURT: It was.

2 MR. BIZAR: Thank you, Your Honor.

3 Can we bring up 315B.

4 BY MR. BIZAR:

5 Q. Do you remember this, Ms. Reickard?

6 A. Yes.

7 Q. You were asked about this?

8 A. Yes.

9 Q. Your letter, your e-mail to Mr. Gregory at the bottom on

10 January 31, 2007, it says: Sauder's not going to pay the USEM

11 2007 fee. The AP person said Paul just joined for this

12 export, is not becoming a member. Please advise.

13 Do you see that?

14 A. Yes.

15 Q. You're asking Mr. Gregory to respond to you with

16 instructions?

17 A. Yes. Yes.

18 Q. That is around the time you found out they weren't going

19 to pay the dues, right?

20 A. Yes.

21 Q. And then Mr. Gregory responds and says: Yes, that is

22 correct. Paul talked to me about it. He's still a supporter

23 but wants to work on each individual order rather than being

24 an official member.

25 Do you see that?

1 A. Yes.

2 Q. That's what he did?

3 A. That's exactly what he did.

4 Q. He worked on the orders when he chose to work on them and

5 when he didn't want to work on them, when he didn't have eggs,

6 he had another customer with a better price he didn't?

7 MR. LYONS: Objection.

8 THE COURT: Sustained.

9 MR. BIZAR: I don't think I have anything further,

10 Your Honor. I'll try to get her back home.

11 THE COURT: Okay. Other cross-examination?

12 MR. BARNES: Yes, Your Honor.

13 THE COURT: Mr. Barnes.

14 CROSS-EXAMINATION

15 BY MR. BARNES:

16 Q. It's still morning, so I'll say good morning,

17 Ms. Reickard.

18 A. Good morning.

19 Q. It's been a long day, long few days. I will try to be as

20 brief as possible. I'm going to hand you a package, with the

21 Court's permission, of certain summary exhibits, and I'm going

22 to ask you about each exhibit, some very basic questions.

23 MR. BARNES: May I approach, Your Honor?

24 THE COURT: Yes, you may.

25 And these exhibits have been shared, Mr. Barnes,

1 with all counsel?

2 MR. BARNES: Yes, Your Honor.

3 THE COURT: Okay. Good.

4 BY MR. BARNES:

5 Q. Ms. Reickard, would you look at what I believe is the

6 first summary exhibit in your package. It's marked as

7 Defendants' Exhibit 1007 for identification. Let me know when

8 you have that in front of you.

9 A. Yes.

10 Q. What is this document, Ms. Reickard?

11 A. It is a document that was compiled from all my invoices.

12 Q. Okay. Now, if you look --

13 MR. LYONS: I'm sorry, Counsel. I don't have a

14 copy. I have everything but that one.

15 MR. BARNES: I'm sorry. Oh, there's a copy.

16 MR. LYONS: All good.

17 BY MR. BARNES:

18 Q. If you would look at the two columns, Member Name and

19 Application Date, and, as you can see on the second, third and

20 fourth pages, there are lists of member names, application

21 dates, and then there are four other columns. Do you see

22 that?

23 A. Yes.

24 Q. Did you supply or verify the accuracy of the information

25 in each of those columns?

1 A. I verified it, yes.

2 MR. BARNES: Your Honor, I move the admission of

3 Defendants' Exhibit 1007.

4 MR. LYONS: Without objection.

5 THE COURT: 1007 is admitted.

6 MR. BARNES: Thank you.

7 BY MR. BARNES:

8 Q. Now, attached to the first four pages of Exhibit 1007,

9 there is a document, another document which says: United

10 States Egg Marketers, Inc., Members List 2006-2008.

11 Do you see that, Ms. Reickard?

12 A. Yes.

13 Q. Could you briefly describe for the jury the information

14 contained in the pages of that document, the Egg Marketers'

15 members list?

16 A. Well, these were the references to the invoices.

17 Q. That you used to verify the accuracy?

18 A. Yes.

19 Q. And the numbers you see there, UE0214692, et cetera,

20 we're not going to go through each of these, believe me.

21 A. I've already been through all of them, believe me.

22 Q. Okay, but for the benefit of the jury, so that they can

23 understand this document, do those numbers represent numbers

24 that were stamped on the documents you used to verify the

25 accuracy of the information in this exhibit?

1 List. And this is after the first four pages.

2 I believe you previously testified that all of the

3 numbers in that portion of the exhibit were numbers that were

4 stamped upon the Membership Agreements and other documents

5 that you used, that you personally looked at to verify the

6 accuracy of this summary exhibit?

7 A. Yes.

8 Q. Now, directing your attention to the next four columns,

9 and, again, we're not going to go through these numbers one at

10 a time, but just so that the jury can understand what we're

11 looking at, each column is -- well, it's captioned Member

12 Reported Flock Capacity. The first column is an application

13 date.

14 A. Yes.

15 Q. Do you see that column?

16 A. Yes.

17 Q. And what does that refer to?

18 A. The date that they signed the application.

19 Q. And is that the flock capacity that the member reported

20 on that application on that date?

21 A. Yes.

22 Q. Now, again, there are three other columns captioned

23 Member Reported Flock Capacity for the years 2006, 2007, and

24 2008. Do you see those columns?

25 A. Yes.

1 A. Yes.

2 Q. Now, let me direct your attention back to the first page,

3 and as you'll see, there's a column that says Application

4 Date. Where did you get the information to verify that

5 information?

6 A. From the applications.

7 Q. From the membership applications?

8 A. Yes.

9 Q. Looking at the next columns -- we're not going to go

10 through this number by number.

11 I'm sorry. May we publish this, Your Honor?

12 THE COURT: Yes.

13 MR. BARNES: Thank you.

14 Would you bring up the first page of 1007. I'm

15 trying to finish quickly so I got ahead of myself. I

16 apologize.

17 BY MR. BARNES:

18 Q. Okay, so there we have first page of 1007. You've

19 already testified that the member name and application date,

20 you verified from looking at the actual membership application

21 of each member listed in this exhibit.

22 A. Yes.

23 Q. Okay. And, again, for benefit of the jury, since I

24 didn't publish this at the right time, the last few pages are

25 captioned: United States Egg Marketers, Inc., Membership

1 Q. And, again, were those flock capacities reported by the

2 members for those years?

3 A. Yes.

4 Q. And, again, did you personally look at each underlying

5 document to verify the accuracy of every number on this

6 exhibit?

7 A. Yes.

8 Q. Okay. Now, would you just look at one column, the third

9 under the member name, the third member down from the top,

10 Brown Brothers Produce Company. And if you look over three

11 columns, where it's member reported flock capacity for 2006,

12 it says: Nonmember.

13 A. Correct.

14 Q. What does that mean? Can you explain that to the jury?

15 A. That means that he had withdrawn his membership. Excuse

16 me.

17 Q. But he does report flock capacity in 2007 and 2008,

18 correct?

19 A. He apparently joined again, yes.

20 Q. Thank you.

21 Now I'm going to direct your attention to another

22 summary exhibit, which should be in the stack in front of you.

23 And what's your next exhibit there, ma'am?

24 A. 1000.

25 Q. Okay. So if we could look at Defense Exhibit 1000 for

1 identification, could you look at the first page, please, and
 2 tell us what this document represents?
 3 A. It represents the October 2006 export. It summarizes the
 4 total cases, the number of cases supplied by the members, and
 5 the percentage of the cases that were supplied by the members.
 6 MR. BARNES: I move the admission of Plaintiffs'
 7 Summary Exhibit 1000.
 8 MR. LYONS: No objection.
 9 THE COURT: 1000 is admitted.
 10 MR. BARNES: Can we publish the exhibit, Your Honor?
 11 THE COURT: Yes, you may.
 12 MR. BARNES: Can we have the first page of 1000
 13 displayed, please, and the second page, as well.
 14 BY MR. BARNES:
 15 Q. Now, let me direct your attention to the second page.
 16 Let's look at the second page. There we go. And this is
 17 captioned Detail of USEM's October 2006 Egg Export. And
 18 indeed there's a lot of detail here, isn't there?
 19 A. Yes, there is.
 20 Q. Again, we're not going to go through each column, but if
 21 you can briefly describe for the jury what each column
 22 represents.
 23 A. Um --
 24 Q. Take container count is number one. What does that
 25 represent?

1 A. Container count just represents the number of loads for
 2 the export.
 3 Q. And invoice number, what --
 4 A. Is the invoice -- my invoice number to the exporter.
 5 Q. And that's an invoice that you prepared?
 6 A. Yes.
 7 Q. There's a date which is self-explanatory. The buyer, I
 8 assume that's the person who is buying the eggs for export?
 9 A. Yes, that's correct.
 10 Q. Shipped via, what does that column --
 11 A. That is the person supplying the eggs.
 12 Q. Okay. And the next column is Shipped Via Member.
 13 A. That's just stating whether it was a USEM marketers'
 14 member or not.
 15 Q. And the number of cases is self-explanatory. And that
 16 would indicate the number of cases that that particular member
 17 or supporter, as the case maybe, supplied for that export?
 18 A. That's the number of cases on that particular load.
 19 Q. Right.
 20 And, again, there's a document number -- a document
 21 control number in the very last column.
 22 A. Yes.
 23 Q. Now, did you personally review --
 24 A. Every one of them, yes, I did.
 25 Q. Thank you very much.

1 Now, would you look at the next exhibit, summary
 2 exhibit in your package.
 3 A. 1001.
 4 Q. Okay. And, again, could you identify Exhibit 1001.
 5 A. It's a summary of the December 2006 export, listing the
 6 total cases, the cases supplied by the members, and the
 7 percentage of the cases supplied by members.
 8 Q. And, again, for this exhibit, did you perform a
 9 verification process that you described for each and every
 10 entry looking at each and every supporting document?
 11 A. Yes, I did.
 12 MR. BARNES: Your Honor, I move the admission of
 13 Defendants' 1001.
 14 MR. LYONS: Without objection.
 15 THE COURT: 1001 is admitted.
 16 MR. BARNES: Can you display 1001, please. May I
 17 publish it?
 18 THE COURT: Yes.
 19 MR. BARNES: Thank you.
 20 BY MR. BARNES:
 21 Q. Now, again, the format is the same as the prior exhibit,
 22 correct?
 23 A. Yes.
 24 Q. And the column that says Total Cases, is that the total
 25 cases in that export?

1 A. Yes.
 2 Q. Cases supplied by members, I assume that's the total
 3 number of cases supplied by member eggs?
 4 A. Yes.
 5 Q. And the last column, the green highlighted column, does
 6 that represent the percentage of member eggs in that export?
 7 A. Yes.
 8 Q. And I assume that would be the same for the prior
 9 exhibit, 1000?
 10 A. Yes.
 11 Q. All right. Now, what's the next numbered exhibit,
 12 summary exhibit in your packet?
 13 A. 1002.
 14 Q. And, again, Ms. Reickard, to shorten this up, if you
 15 would look at Exhibit 1002, did you perform the same
 16 verification process on this exhibit as you did on the prior
 17 two exhibits?
 18 A. Yes, I did.
 19 MR. BARNES: Your Honor, I move the admission of
 20 1002.
 21 MR. LYONS: No objection.
 22 THE COURT: It is admitted.
 23 MR. BARNES: Would you pull up the first page of
 24 1002, please.
 25

1 BY MR. BARNES:

2 Q. And, again, I'm just going to direct your attention to

3 the green box with the number 76.66 percent. What does that

4 number indicate?

5 A. The number of cases that members supplied for that

6 export.

7 Q. What's the next exhibit in your packet?

8 A. 1003.

9 Q. All right. Do you have that in front of you?

10 A. Yes.

11 Q. Thank you.

12 Again, I will ask you, did you perform the same

13 verification process on Defense Exhibit 1003 as you did on the

14 prior Defense summary exhibits for the other export loads?

15 A. Yes, I did.

16 MR. BARNES: Your Honor, I move the admission of

17 Defense Exhibit 1003?

18 THE COURT: Any objection?

19 MR. LYONS: No objection.

20 THE COURT: It is also admitted.

21 MR. BARNES: Thank you, Your Honor. May I publish

22 it?

23 THE COURT: Yes.

24 MR. BARNES: Will you pull up the first page of

25 Defense Exhibit 1003.

1 portion, there's a number there, 76.67 percent. What does

2 that number represent?

3 A. That's the percentage of the total cases that members

4 supplied.

5 Q. What is the next exhibit in your packet?

6 A. 1005.

7 Q. Did you perform the same meticulous verification of each

8 and every item on each and every page of this exhibit that you

9 did on all the others?

10 A. Yes, I did.

11 MR. BARNES: Your Honor, I move the admission of

12 Defense Summary Exhibit 1005.

13 MR. LYONS: No objection.

14 THE COURT: It's admitted and may be published.

15 MR. BARNES: Thank you, Your Honor.

16 Will you pull up the first page, please.

17 BY MR. BARNES:

18 Q. Ms. Reickard, again, would you look at the green-shaded

19 portion of the first page of Defense Exhibit 1005 and tell the

20 jury what that represents?

21 A. Again, it's the percentage of cases that members

22 supplied.

23 Q. And on this exhibit, it's 76.67 percent; is that correct?

24 A. Yes.

25 Q. And I think we're down to our final exhibit?

1 BY MR. BARNES:

2 Q. And, again, directing your attention, Ms. Reickard, to

3 the green-shaded portion of the first page, could you tell the

4 jury what that number represents?

5 A. It's the number of cases that members supplied for this

6 export. It's a percentage. I'm sorry.

7 Q. So, in this export, member eggs total 81.45 percent?

8 A. Correct.

9 Q. What is your next exhibit?

10 A. 1004.

11 Q. All right, you have that in front of you. Again, I will

12 ask you, did you perform the same meticulous verification

13 process on this exhibit that you performed on the prior

14 summary exhibits?

15 A. Yes, I did.

16 MR. BARNES: Your Honor, I move the admission of

17 Defense Exhibit 104 -- 1004.

18 MR. LYONS: Without objection.

19 THE COURT: That's fine. It's admitted.

20 MR. BARNES: May I publish it?

21 THE COURT: Yes.

22 MR. BARNES: Will you pull up the first page of

23 Defense Exhibit 1004.

24 BY MR. BARNES:

25 Q. Again, directing your attention to the green-shaded

1 A. Yes. 1006.

2 Q. Correct. And I will ask you the same question I've been

3 asking you before. Did you perform the same careful,

4 meticulous verification of each and every item on each and

5 every page of this exhibit?

6 A. I did. And I didn't get paid for any of this.

7 Q. I'm terribly sorry.

8 A. So am I.

9 MR. BARNES: Your Honor, I move the admission of

10 Defense Exhibit 1006.

11 THE COURT: Any objection?

12 MR. LYONS: No objection.

13 THE COURT: Then it's admitted and it may be

14 published.

15 MR. BARNES: Thank you, Your Honor.

16 BY MR. BARNES:

17 Q. Would you please take a look again at the green-shaded

18 portion of Exhibit -- Defense Exhibit 1006 and tell the jury

19 what that represents.

20 A. 74.72 percent of the cases were supplied by members.

21 Q. Okay. So we're looking at a total of seven exports in

22 these summary exhibits; is that correct?

23 A. Yes.

24 Q. And is it also correct that in each and every one of

25 these seven exports, the percentage of member eggs as opposed

1 to nonmember eggs exceeded 50 percent?

2 A. Definitely.

3 Q. Okay. Okay.

4 MR. BARNES: Could we pull up, please, Plaintiffs'

5 Exhibit 229. I believe this has been admitted into evidence.

6 BY MR. BARNES:

7 Q. Let me know when you have that in front of you. Got it?

8 Thank you.

9 Okay, Plaintiffs' Exhibit 229 is an export case

10 volume summary form for the August, September 2007 exports; is

11 that correct?

12 A. Yes.

13 Q. Now, would you look down the left-hand column close to

14 the bottom. You'll see the name of Rose Acre. I know it's

15 hard to see.

16 A. Yes.

17 Q. Okay. And in the Percentage of Loss column on that

18 document, is there any number written in that column?

19 A. No.

20 Q. So Rose Acre did not receive a bill for any loss for this

21 export?

22 A. That's correct.

23 Q. And, therefore, Rose Acre didn't subsidize any other

24 members for this export?

25 A. No.

1 Q. And, again, I don't want to go through each and every

2 export case volume form, but let me just ask you generally,

3 did Rose Acre always supply its own eggs for the exports?

4 A. Yes, they did.

5 Q. Did Rose Acre ever get a bill for any share of any loss

6 on any of the exports?

7 A. No.

8 Q. Did Rose Acre ever subsidize any losses for any other

9 supporters of that export?

10 A. No.

11 MR. BARNES: Could we have Plaintiffs' 206, please.

12 That's been admitted into evidence.

13 Show that to the jury and Ms. Reickard.

14 BY MR. BARNES:

15 Q. Can you see that?

16 A. Yes.

17 Q. And this is the Membership Agreement for Rose Acre Farms,

18 correct?

19 A. Correct.

20 Q. Okay. Now I'm going to show you another document which

21 is not yet in evidence, so we do not want to publish this to

22 the jury at this time, but we'll get there. Defense

23 Exhibit 590. Do you have it? Well, you have it somewhere in

24 your book.

25 MR. LYONS: Plaintiffs' 590?

1 THE COURT: Pardon me?

2 MR. LYONS: Plaintiffs' 590?

3 MR. BARNES: No, Defendants' 590.

4 MR. LYONS: Can I just look?

5 MR. BARNES: Yes.

6 (Discussion off the record.)

7 MR. BARNES: Okay. I forgot I had the copies with

8 me.

9 Okay. Whoops, I've got to have one back.

10 May I approach the witness, Your Honor?

11 THE COURT: Yes.

12 BY MR. BARNES:

13 Q. Ms. Reickard, I'm going to hand you a copy of what's been

14 marked as Defense Exhibit 590. And I'm going to ask you to

15 take a look at that and tell me if you recognize it.

16 A. I do.

17 Q. What is it?

18 A. It's Rose Acre's USEM marketers membership form --

19 application.

20 MR. LYONS: I apologize, Your Honor. Counsel handed

21 me an exhibit, but he handed me 206; he didn't hand me 590.

22 MR. BARNES: I'm sorry. Here, I'm sorry. I have

23 another copy, I hope. I'm sorry.

24 MR. LYONS: Okay.

25 MR. BARNES: Got it.

1 THE COURT: Just so we're all dealing with whatever

2 number is given, it's 12-22-2007 Membership Agreement and

3 Export Commitment?

4 MR. BARNES: That was exhibit -- the document that

5 I've just handed the witness, I'll provide to the Court.

6 THE COURT: The answer is yes, it is?

7 MR. BARNES: Yes, it is, Your Honor.

8 THE COURT: Okay.

9 MR. LYONS: There's no objection to this exhibit,

10 Your Honor.

11 THE COURT: Okay.

12 MR. BARNES: May we publish it?

13 THE COURT: Yes.

14 MR. BARNES: Could we pull up Defense Exhibit 590.

15 BY MR. BARNES:

16 Q. Now, there's a slight difference between this exhibit and

17 Plaintiffs' Exhibit 206, which is another version of Rose

18 Acre's Membership Agreement; is that correct?

19 A. Yes. Yes.

20 Q. What is the difference?

21 A. This was my copy when I received it. I keep records of

22 the UEP membership layers. I did keep records, I'll say. And

23 all of my records had to be the same whether it was the animal

24 welfare records, whether it was the membership records,

25 whether it was U.S. Egg Marketers. I always verified to check

1 that all the numbers were the same. And in October of every
 2 year, I verified numbers because when I send out dues
 3 invoices, I don't want to get them back corrected, make
 4 adjusting entries. So this 20 million, 586 was the number
 5 that Rose Acres had supplied to me in October, and so that was
 6 the number that I used for their Membership Agreement.

7 MR. BARNES: May we publish this, Your Honor?

8 THE COURT: Yes, you may.

9 MR. BARNES: Will you pull up Defense Exhibit 590 so
 10 the jury can see what you're talking about?

11 MR. LYONS: It's on the screen.

12 MR. BARNES: Pardon me.

13 MR. LYONS: It's on the screen already, Counsel.

14 MR. BARNES: I'm sorry. My eyesight isn't what it
 15 used to be.

16 BY MR. BARNES:

17 Q. Now, you referred to a handwritten number on this
 18 exhibit, Defense 590.

19 A. Yes.

20 Q. Could you direct the jury's attention to that number?

21 A. That's up at the top of the page, the 20 million, 586.

22 Q. And that's your handwriting?

23 A. Yes.

24 Q. And you got that number from Rose Acre?

25 A. I would have gotten that number from Rose Acre in October

1 before, yes.

2 Q. Okay. Now, that's more than the 20 million layers that
 3 they listed in their original application, which was
 4 Plaintiffs' Exhibit 206, correct?

5 A. Correct.

6 Q. Did USEM members from time to time increase, tell you
 7 that there was an increase in their cage capacity?

8 A. Oh, yes.

9 Q. Did they tell you there was a decrease in their cage
 10 capacity?

11 A. Yes.

12 Q. Now, just to clarify one final point, since I'm a little
 13 confused.

14 MR. BARNES: Could we have Plaintiffs' 229 again,
 15 please. This is the export case volume exhibit.

16 BY MR. BARNES:

17 Q. And if you again look at the right column, Mr. Lyons
 18 spent some time with you on this, the percentage of loss. I
 19 just want to make sure we all understand what that means.
 20 That does not mean, does it, that every export, total export,
 21 always resulted in a loss for every USEM member or for USEM
 22 itself?

23 A. That's correct.

24 Q. USEM as a company, as an entity, never itself lost money
 25 on an export?

1 A. That's correct.

2 Q. Now, were USEM members -- pardon me.

3 Were USEM supporters, first of all, they were free
 4 to sell their eggs to anybody at any time for any price?

5 A. That's correct.

6 Q. There was no obligation to sell them to USEM for export?

7 A. No.

8 Q. Now the USEM members had an obligation, correct?

9 A. Yes, yes.

10 Q. But to the extent that USEM members had excess eggs, they
 11 could sell them for any price to anybody?

12 A. That's correct.

13 Q. Now, Mr. Lyons went through some of the entries, and he
 14 did -- he had a do-it-yourself exhibit, which tended to show
 15 average prices and losses and all this. For any given member
 16 that participated in any USEM export, do you know whether that
 17 member made or lost money on that export?

18 A. No, I don't know.

19 Q. Do you know whether Rose Acre Farms, for example, when it
 20 sold eggs through the USEM export program, could have obtained
 21 a better price for those eggs?

22 A. No, I don't know that.

23 Q. Do you know whether those eggs were surplus to Rose Acre?

24 A. No, I don't.

25 Q. Would your answer be the same for any other USEM member?

1 A. Correct. Yes.

2 MR. BARNES: Ms. Reickard, I thank you for your
 3 patience. I have no further questions --

4 THE COURT: Any further --

5 MR. BARNES: -- at this point.

6 THE COURT: -- cross-examination?

7 MR. CALLOW: No, Your Honor, thank you.

8 THE COURT: Redirect?

9 MR. LYONS: Yes, Your Honor, thank you.

10 REDIRECT EXAMINATION

11 BY MR. LYONS:

12 Q. Ms. Reickard, thank you for your time today. I will be
 13 brief. I just want to cover a few things. Let me take a
 14 second to get set up here.

15 MR. LYONS: May I approach with two exhibits,
 16 Your Honor?

17 THE COURT: Yes.

18 MR. LYONS: And may I have D-1007, which is in
 19 evidence on the screen for the witness, please.

20 I mean for everyone, I apologize.

21 BY MR. LYONS:

22 Q. So, Ms. Reickard, let me ask --

23 MR. LYONS: If we could scroll down on this exhibit,
 24 which is in evidence, to the second page of the document, and
 25 the top line that references a member by the name of Fort

1 Recovery Equity.
 2 BY MR. LYONS:
 3 Q. Do you see that?
 4 A. No. It's not here yet.
 5 Q. Oh. I'm sorry.
 6 MR. LYONS: The jury -- does the jury have 1007?
 7 THE COURT: It was published, I recall -- as I
 8 recall.
 9 MR. LYONS: Your Honor, I'd ask if Defense could
 10 cull up 1007, which is their exhibit.
 11 THE COURT: Right. Could you do that for us, folks?
 12 There it is.
 13 MR. LYONS: And if we can go to the second page.
 14 BY MR. LYONS:
 15 Q. Do you see there's a reference to Fort Recovery Equity?
 16 A. Yes.
 17 Q. Do you see that, ma'am?
 18 A. Yes.
 19 Q. Right? And then there's a little footnote for that,
 20 which is footnote Number 17. Do you see that, on that page?
 21 A. Not yet.
 22 Q. No, no, no, the -- next to the name Fort Recovery Equity,
 23 there is a footnote on that line.
 24 A. Oh, I see that, yes.
 25 Q. Do you see that, ma'am?

1 A. Yes.
 2 Q. All right. And that's footnote 17, right?
 3 A. Yes.
 4 Q. Now, and then if I look at the fifth page of this exhibit
 5 and I go to footnote 17, there is an entry for the Bates
 6 number UEO302000. Do you see that, ma'am?
 7 A. Yes.
 8 Q. Okay, and that's the Bates number of the document that I
 9 handed you that's Exhibit 522, correct, for Fort Recovery?
 10 A. Yes.
 11 Q. That's the Membership Agreement for that company,
 12 correct?
 13 A. Yes. Yes.
 14 MR. LYONS: Your Honor, I move admission for
 15 Exhibit 522.
 16 MR. BARNES: Your Honor, I'm going to object. It's
 17 beyond the scope.
 18 THE COURT: No, I'll allow it. Go ahead.
 19 MR. LYONS: Thank you.
 20 And also if I can ask you to take a look at -- if we
 21 can have -- pull up Weiss Lake Egg Company, which is on page 4
 22 of this exhibit.
 23 BY MR. LYONS:
 24 Q. And there's a footnote for that company which is line --
 25 footnote 57. Do you see that, ma'am, on the screen in front

1 of you?
 2 A. Yes.
 3 Q. And you go to footnote 57 for that exhibit on page 7 of
 4 this document, there's a Bates number -- with a Bates number
 5 stamp UE0214790, right?
 6 A. Yes.
 7 Q. And that's the same Bates number of Exhibit D-139 that I
 8 placed before you, correct?
 9 A. Yes.
 10 MR. LYONS: We move admission of Exhibit D-139.
 11 MR. BARNES: Same objection.
 12 THE COURT: Okay, same ruling. Go ahead.
 13 BY MR. LYONS:
 14 Q. Now, ma'am, we looked at --
 15 MR. LYONS: Can I have Exhibit 1000 displayed in the
 16 same way?
 17 BY MR. LYONS:
 18 Q. This was the summary of the USEM export for October 2006,
 19 and this is referring to the cases supplied by members. Do
 20 you see that?
 21 A. Yes.
 22 Q. Okay, and just so that I'm clear and for the benefit of
 23 everyone in the courtroom, when it says "cases supplied by
 24 members," that's referring to members who supplied eggs for
 25 the export, correct?

1 A. Yes.
 2 Q. Okay, and then there was another part of the export that
 3 was used for people who asked UEP to buy eggs for them,
 4 correct?
 5 A. Yes. Yes.
 6 Q. And there's no charge that had been prepared with regard
 7 to those --
 8 A. No.
 9 Q. -- correct?
 10 A. Correct.
 11 Q. And so for -- this export is 54.51 percent of the members
 12 shows to supply eggs, and the remainder, the 49.45 percent,
 13 had you guys buy eggs for them?
 14 A. Correct.
 15 Q. And that would be consistent for all of the exhibits we
 16 just looked at, correct?
 17 A. Yes.
 18 Q. Now, this chart that shows the cases supplied by the
 19 members does not show the price that UEP paid those members
 20 for those eggs, correct?
 21 A. No, it doesn't.
 22 Q. And just so that we're clear, when members supplied eggs
 23 as part of an export, UEP paid the members for those eggs?
 24 A. Yes.
 25 Q. Okay. Mr. Bizar, I think, showed you my flip chart that

1 we used and said that Sauder had paid -- there was no
 2 evidence, and you didn't know what you paid Sauder for those
 3 eggs. And he asked you, he said, You don't know that Sauder
 4 was paid \$1.11 for those eggs.

5 Do you remember him asking that question?

6 A. Yes. No, I don't know that.

7 Q. But you actually had records showing how much UEP paid
 8 everyone who supplied eggs for an export, correct?

9 A. Yes.

10 Q. UEP had those records, correct?

11 A. Yes.

12 Q. Because they sent a check to the person who supplied the
 13 eggs for the amount that -- that person received from the eggs
 14 that had been exported, correct?

15 A. Yes.

16 Q. And then the example that we looked at, the price was
 17 59 cents that we looked on my flip chart, right?

18 A. That's right.

19 Q. That was a price that UEP paid those members for the eggs
 20 that they were supplying?

21 A. Yes.

22 Q. Okay. Now, Mr. --

23 MR. BIZAR: Bizar.

24 MR. LYONS: Thank you.

25

1 BY MR. LYONS:

2 Q. Mr. Bizar asked you some questions about whether Sauder
 3 subsidized this export or any export. Do you remember him
 4 asking you some questions about that?

5 A. Yes.

6 Q. I think counsel also asked the question, Did Rose Acre
 7 subsidize any export? Do you recall that?

8 A. Yes.

9 Q. What did you understand them to mean when they asked you
 10 whether they subsidized any export?

11 A. Well, I guess now that you ask that, I guess I'm not
 12 sure.

13 Q. You answered the question, didn't you, ma'am?

14 A. Yes, I did.

15 Q. You answered the question -- you didn't know what the
 16 question meant and you answered it anyway. Is that your
 17 testimony?

18 A. I guess that's true, yes.

19 MR. LYONS: I have nothing further.

20 THE COURT: Any further cross?

21 MR. BIZAR: One question, Your Honor.

22 THE COURT: Go ahead.

23 MR. BIZAR: I'd stay at the bench, but nobody can
 24 see me over there in the corner of the bench.

25

1 RE CROSS-EXAMINATION

2 BY MR. BIZAR:

3 Q. Did you -- did Mr. Lyons show you any invoices to
 4 R.W. Sauder where USEM was asking R.W. Sauder to cut a check
 5 to USEM?

6 A. No.

7 MR. BIZAR: Okay, that's it. Thank you, Your Honor.

8 THE COURT: Mr. Barnes?

9 MR. BARNES: Yes.

10 RE CROSS-EXAMINATION

11 BY MR. BARNES:

12 Q. The same question for Rose Acre Farms.

13 A. No.

14 Q. A few other questions on Defense Exhibit 522, which is
 15 the Fort Recovery application?

16 A. Yes.

17 Q. And Defense Exhibit 139, which is the application for
 18 Weiss Lake. I'm sorry.

19 Did you do anything to verify any of the numbers in
 20 this exhibit -- these two exhibits other than the number of
 21 layers?

22 A. No.

23 Q. So you did verify the number of layers?

24 A. Yes.

25 Q. But no other information in the exhibit?

1 A. No.

2 Q. Do you have an understanding of the term "contract
 3 grower," which is a word that appears in these exhibits?

4 A. Um, no, I don't.

5 MR. BARNES: Thank you. No further questions.

6 MR. LYONS: Just -- can I ask from here, Your Honor?

7 THE COURT: Sure.

8 RE CROSS-EXAMINATION

9 BY MR. LYONS:

10 Q. Ma'am, with regard to the questions that counsel was just
 11 asking you, do you have any reason to believe that any of the
 12 information supplied on any of the membership agreements was
 13 inaccurate?

14 A. No, I don't have any reason to believe that.

15 MR. LYONS: Nothing further.

16 THE COURT: Okay. You're excused. Thank you very
 17 much. Travel safely. I hope you make your plane.

18 THE WITNESS: Thank you.

19 (Witness exits.)

20 THE COURT: Do you want to call your next witness?

21 MR. ARANOFF: May it please the Court, Your Honor,
 22 Plaintiffs call Robert Krouse.

23 THE COURT: While we do that, a very, very brief
 24 break? Don't chat. Just come on back.

25 THE DEPUTY CLERK: All rise.